



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,152	01/20/2004	James Richter	0267-001-1802	6984
31108	7590	07/20/2005	EXAMINER	
PAUL J. SUTTON, ESQ., BARRY G. MAGIDOFF, ESQ. GREENBERG TRAURIG, LLP 200 PARK AVENUE NEW YORK, NY 10166			DONOVAN, LINCOLN D	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

**Office Action Summary**

Application No.

10/759,152

Applicant(s)

RICHTER ET AL.

Examiner

Lincoln Donovan

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claim 12 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claimed invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 05-12-05.

Applicant's election with traverse of the restriction in the reply filed on 05-12-05 is acknowledged. The traversal is on the ground(s) that the embodiments are both drawn to mounting a support member on a strap. This is not found persuasive because each of the embodiments requires additional search and/or considerations.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

Claim 2 is objected to because of the following informalities: in line 2, "strap.." should be corrected as "'strap.'" Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, applicant should clarify the specific operation intended by the button. It is not clear what is operated by the button since it appears that the "button" is intended to be pivoted about the trunnion.

Regarding claim 11, applicant should clarify the pivotal coupling of the support member to the "button."

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, and 11, as best understood in view of the rejections under USC 112, 2nd paragraph, is rejected under 35 U.S.C. 103(a) as being unpatentable over Savicki, Jr. et al. [US 2003/0121765] in view of Benander [US 2,269,171].

Regarding claims 1 and 3, Savicki, Jr. et al. discloses a circuit interrupting device [10] having a mounting strap [26] comprising: a support member [18] adapted to be coupled to the mounting strap and receiving a pivotal rocker button type switch operator [12].

Savicki, Jr. et al. disclose everything claimed except the switch operator having a trunnion means to be received by the support means.

Benander discloses a circuit interrupting device [figure 3] having a support member [11] mounted on a strap [56] supporting a rocker switch [13] via a dowel shaped trunnion [21] mounted within an aligned opening [23] of the switch member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a trunnion to support the button switch of Savicki, Jr. et al., as suggested by Benander, in order to provide a fulcrum to provide the rocking motion of the button switch.

Regarding claim 2, Savicki, Jr. et al. discloses the support member including a protruding member [24] received in hole [37] of the strap.

Regarding claims 4-5 and 11, Benander discloses the strap member including legs/hooks [58] to engage with corresponding openings [59] on the support member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leg/hook engagement design of Benander with the support of Savicki, Jr. et al. in order to fix the support on the strap.

Savicki, Jr. et al., as modified, discloses the claimed invention except for the legs/hooks being on the support and the openings being on the strap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the openings on the support and the legs/hooks on the strap, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savicki, Jr. et al., as modified, as applied to claim 5 above, and further in view of Valenzona [US 5,239,143].

Savicki, Jr. et al., as modified, disclose everything claimed except the support including projections providing aligned snap fit openings providing bearing support for the trunnions and biasing means for the switch.

Valenzona discloses a rocker type switch [figure 3] having an operating member [76] mounted via a trunnion [50] received in aligned snap fit openings [figure 5, column 5, lines 1-10].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the trunnion support design of Valenzona for the trunnions of Savicki, Jr. et al., as modified, in order to support the button.

Savicki, Jr. et al., as modified, discloses the claimed invention except for positioning of the trunnion relative to the support. It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the trunnion support of Savicki, Jr. et al., as modified, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Allowable Subject Matter***

Claims 6 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

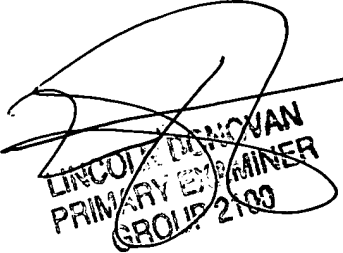
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is 571-272-1988. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Enad Elvin can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ldd



LINCOLN DONOVAN  
PRIMARY EXAMINER  
GROUP 2100